

Maine Revised Statutes
Title 18-A: PROBATE CODE
Article :

§9-302. CONSENT FOR ADOPTION

(a). Before an adoption is granted, written consent to the adoption must be given by:

(1). The adoptee, if the adoptee is 14 years of age or older; [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(2). Each of the adoptee's living parents, except as provided in subsection (b); [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(3). The person or agency having legal custody or guardianship of the child or to whom the child has been surrendered and released, except that the person's or agency's lack of consent, if adjudged unreasonable by a judge of probate, may be overruled by the judge. In order for the judge to find that the person or agency acted unreasonably in withholding consent, the petitioner must prove, by a preponderance of the evidence, that the person or agency acted unreasonably. The court may hold a pretrial conference to determine who will proceed. The court may determine that even though the burden of proof is on the petitioner, the person or agency should proceed if the person or agency has important facts necessary to the petitioner in presenting the petitioner's case. The judge shall consider the following:

(i) Whether the person or agency determined the needs and interests of the child;

(ii) Whether the person or agency determined the ability of the petitioner and other prospective families to meet the child's needs;

(iii) Whether the person or agency made the decision consistent with the facts;

(iv) Whether the harm of removing the child from the child's current placement outweighs any inadequacies of that placement; and

(v) All other factors that have a bearing on a determination of the reasonableness of the person's or agency's decision in withholding consent; and [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(4). A guardian appointed by the court, if the adoptee is a child, when the child has no living parent, guardian or legal custodian who may consent. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

A petition for adoption must be pending before a consent is executed.

[1997, c. 239, §4 (AMD); 1997, c. 239, §6 (AFF) .]

(b). Consent to adoption is not required of:

(1). A putative father or a legal father who is not the biological father if he:

(i) Received notice and failed to respond to the notice within the prescribed time period;

(ii) Waived his right to notice under section 9-201, subsection (c);

(iii) Failed to meet the standards of section 9-201, subsection (i); or

(iv) Holds no parental rights regarding the adoptee under the laws of the foreign jurisdiction in which the adoptee was born; [1999, c. 790, Pt. G, §1 (AMD).]

(2). A parent whose parental rights have been terminated under Title 22, chapter 1071, subchapter VI; [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(3). A parent who has executed a surrender and release pursuant to section 9-202; [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(4). A parent whose parental rights have been voluntarily or judicially terminated and transferred to a public agency or a duly licensed private agency pursuant to the laws of another state or country; or [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(5). The parent of an adoptee who is 18 years of age or older. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1999, c. 790, Pt. G, §1 (AMD) .]

(c). When the department consents to the adoption of a child in its custody, the department shall immediately notify:

(1). The District Court in which the action under Title 22, chapter 1071 is pending; and [1997, c. 715, Pt. C, §1 (NEW).]

(2). The guardian ad litem for the child. [1997, c. 715, Pt. C, §1 (NEW).]

[1997, c. 715, Pt. C, §1 (NEW) .]

SECTION HISTORY

1995, c. 694, §C7 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 239, §4 (AMD). 1997, c. 239, §6 (AFF). 1997, c. 715, §C1 (NEW). 1999, c. 790, §G1 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 127th Maine Legislature and is current through October 1, 2016. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.